



DEAR VALUED CLIENT:

Pennsylvania/Philadelphia

As stated in our prior update, there is no statewide foreclosure, eviction or ejectment moratorium currently in place. However, the Philadelphia County Court of Common Pleas, whose jurisdiction contains approximately 10% of the population of Pennsylvania has promulgated the attached Order relating to Residential evictions during the COVID-19 crisis and its interpretation of the CDC Order dated September 1, 2020 temporarily halting certain residential evictions. The CDC Order should generally not apply to Pennsylvania ejectment actions following foreclosure actions to eject the occupants since almost all of those actions do not have a lease between the occupants of the property or the tenants. Despite this fact, the Court's clerk will accept an Ejectment Complaint with the "Plaintiff's Affidavit in Connection with the CDC Order and Temporary Halt in Evictions to Prevent further Spread of Covid-19" ("Affidavit"). The Ejectment action will be enabled to be filed if the Affidavit provides whether or not the plaintiff/foreclosing lender received a Declaration from the "tenant" that the CDC Order applies and a statement why the CDC stay does not apply. The firm will be confirming these facts with your REO/eviction unit prior to proceeding with an ejectment action.

We participated in an exclusive "meet and greet" with the new Philadelphia Sheriff, Rochelle Bilal, this afternoon. We are extremely hopeful that the new regime change will result in additional transparency, fixed instead of informal rules and an overall easier process with more communication. Important to our clients, however, is that the **Philadelphia sheriff's sale scheduled for October 2020 has been canceled** and an official Order will be forthcoming. It is very likely that the November sales will occur with a certification from counsel that, at a minimum, no moratorium applies. The sheriff indicated that it intends to begin processing new writs of execution/possession but is looking to the Courts for further guidance regarding actually executing on those writs.

New Jersey

Attached is the Eighth Omnibus Order issued by the Court which generally extends all of the judicially impacted processes since March. For example, landlord/tenant complaints may be filed but judgments/dispossessions are still prohibited. Importantly, many of our clients are concerned that the NJ Office of Foreclosure is still processing lack of prosecution dismissals and not permitting an exception to a dismissal due to a COVID-related moratorium. Importantly, the attached Order "[Relaxes] Rule 4:64-8(b) during the term of the [FHA's] foreclosure and eviction moratorium for borrowers [covered under CARES and HUD moratoria], so as to *provide that a plaintiff will not be required to file a new complaint to reinstate a foreclosure matter that has been dismissed twice for lack of prosecution.*" Since the Office of Foreclosure will routinely grant reinstatement of a dismissed foreclosure action for the first time, this is a relief for us and our clients since the general requirement of a restart on the second dismissal is temporarily lifted.

We are now aware of four (4) counties [Ocean, Cumberland, Warren and Atlantic Counties] that will proceed to sheriff sale with an attorney certification [Cumberland requires an order via motion] that a federal moratorium does not apply, and/or the property is vacant or commercial. We are working with our clients to obtain the necessary information to complete this certification and move every file possible to sale.

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NOTICE TO THE BAR

COVID-19 – EIGHTH OMNIBUS ORDER ON COURT OPERATIONS AND LEGAL PRACTICE

The Supreme Court has issued its Eighth Omnibus Order on Court Operations and Legal Practice during the ongoing COVID-19 pandemic. A copy of the Order is attached.

This September 17, 2020 Eighth Omnibus Order continues certain adjustments necessitated during the COVID-19 period, including the prioritization of remote proceedings and permission for electronic signatures, remote or socially distanced depositions, and electronic service on the State of New Jersey. It also reinforces provisions of the Court's September 17, 2020 Order on the first jury trials, including as to the additional option of conducting *voir dire* in a fully virtual format with the consent of the attorneys and parties and the approval of the trial judge.

The September 17, 2020 Eighth Omnibus Order includes the following new or updated provisions:

- **Grand Jury.** Confirming that all counties are virtually selecting new grand jury panels, and providing that grand juries in all counties will be equipped and ready to convene in a virtual format on or before December 1, 2020;
- **Criminal.** Continuing excludable time provisions through October 11, 2020; and
- **Civil.** Relaxing Rule 4:64-8(b) during the term of the Federal Housing Administration's foreclosure and eviction moratorium for borrowers with FHA-insured Single Family mortgages covered under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and HUD Agency Letter 2020-27, so as to provide that a plaintiff will not be required to file a new complaint to reinstate a foreclosure matter that has been dismissed twice for lack of prosecution.

Questions about this notice or the Court's Eighth Omnibus Order may be directed to the Office of the Administrative Director of the Courts at (609) 376-3000.



Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: September 17, 2020

SUPREME COURT OF NEW JERSEY

In response to the ongoing COVID-19 pandemic, the Supreme Court has authorized various adjustments to court operations and legal practice as set forth in a series of Omnibus Orders (March 27, 2020 First Omnibus Order; April 24, 2020 Second Omnibus Order; May 28, 2020 Third Omnibus Order; June 11, 2020 Fourth Omnibus Order; June 25, 2020 Fifth Omnibus Order; July 9, 2020 Sixth Omnibus Order; and July 24, 2020 Seventh Omnibus Order).

Those Omnibus Orders detail the significant changes implemented by the New Jersey Courts over the past six months, from the abrupt transition from in-person to remote court operations to the ongoing, incremental resumption of in-person events at court facilities.

Guided by the recommendations of public health authorities including the Centers for Disease Control and Prevention (CDC) and the New Jersey Department of Health (NJ DOH), courts at all levels are continuing to operate primarily using remote (video and phone) technologies while continuing to expand in-person proceedings, including for matters that cannot be conducted in a remote format. Those in-person proceedings soon will include socially distanced criminal and civil jury trials, beginning to the extent feasible with criminal trials involving detained defendants, as provided by the Court's July 22, 2020 and September 17, 2020 Orders.

This Order confirms and clarifies the status of court proceedings and legal practice during the ongoing hybrid operations of the courts.

Accordingly, it is ORDERED that effective immediately:

(1) JURY TRIALS

- a. Jurors have been summoned for new jury trials starting on or after September 21, 2020, beginning in Bergen, Atlantic, Cumberland, Mercer, and Passaic Counties. Jury selection will be conducted in a hybrid manner with *voir dire* questioning primarily in a virtual format, with technology provided by the Judiciary as needed, and some follow-up questioning and the exercise of peremptory challenges in person. As provided by the September 17, 2020 Order, judges also may approve fully virtual *voir dire* questioning with the consent of all attorneys and parties; and

(2) GRAND JURIES

- a. In-person grand jury selections and sessions remain suspended until further notice;
- b. Jurors have been summoned for new grand jury selections starting on September 29, 2020 (in Passaic County) and expanding statewide by the end of October 2020. Those selections of new grand jury panels

will be conducted in a virtual format consistent with the Court's June 9, 2020 Order;

- c. Existing grand jury panels will continue to participate in virtual sessions, including but not limited to in Bergen, Mercer, and Atlantic Counties and for State Grand Jury;
- d. On or before December 1, 2020 all counties will have new grand jury panels equipped and ready to convene in a virtual format; and

(3) CRIMINAL

- a. Based on the continued temporary suspension of jury trials and grand jury sessions (in many counties), the provisions of the Court's prior Orders regarding excludable time are extended for the additional period starting September 21 through October 11, 2020;
- b. Interim modifications to the process for search warrant and communication data warrant applications and returns remain in full force and effect; and

(4) CIVIL

- a. Landlord/tenant proceedings shall continue as provided by the July 14, 2020 Order, including as follows:
 - i. Lockouts of residential tenants (evictions) continue to be suspended in accordance with Executive Order 106;

- ii. Landlord/tenant complaints may continue to be filed with the courts, and new complaints shall include an email address for the landlord and to the extent available an email address for the tenant, and landlords shall be required to certify as to compliance with the federal Coronavirus Aid, Relief, and Economic Security (CARES Act), 15 U.S.C. 9001 et seq.;
- iii. The courts shall schedule intake and pretrial/settlement conferences; and
- iv. Trials continue to be suspended until further notice, except that landlords/plaintiffs may in emergent circumstances (e.g., drug offenses, threats against landlord, theft) apply for an Order to Show Cause for eviction. The basis of that landlord/tenant action cannot be nonpayment of rent, except in the case of the death of the tenant. In determining whether to issue the Order to Show Cause, the court will review the complaint and determine whether an emergency exists, and, based on that determination may schedule a landlord/tenant trial. As permitted by Executive Order 106, an eviction may proceed in the “interest of justice.”

- b. The relaxation of Rule 1:6-4 is continued so as to eliminate the requirement of courtesy copies if the total submission does not exceed 35 pages in civil matters;
- c. Rule 4:64-8(b) is relaxed during the term of the Federal Housing Administration's foreclosure and eviction moratorium for borrowers with FHA-insured Single Family mortgages covered under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and HUD Agency Letter 2020-27, so as to provide that a plaintiff will not be required to file a new complaint to reinstate a foreclosure matter that has been dismissed twice for lack of prosecution. All other provisions of Rule 4:64-8 related to the foreclosure lack of prosecution process remain unchanged; and

(5) FAMILY

- a. The relaxation of Rule 1:6-4 is continued so as to eliminate the requirement of courtesy copies if the total submission does not exceed 35 pages in matrimonial (FM) matters;

(6) TAX

- a. The provisions of the June 11, 2020 Fourth Omnibus Order (as continued by the June 25, 2020 Fifth Omnibus Order, July 9, 2020

Sixth Omnibus Order, and July 24, 2020 Seventh Omnibus Order)
remain in effect; and

(7) MUNICIPAL

- a. Municipal Court sessions will continue to be conducted primarily using remote technologies in the Municipal Courts. However, the court in limited circumstances may determine to conduct Municipal Court in-person sessions based on the facts and circumstances of an individual case, including complex matters such as DWI trials and certain cases involving a consequence of magnitude; and

(8) ALL COURTS

- a. To the extent practicable, depositions may continue to be conducted remotely using necessary and available video technology, with court reporters authorized in those circumstances to administer and accept oaths remotely. Consistent with public health guidance, depositions also may be conducted in person with social distancing and other appropriate precautions;
- b. The provisions of the April 7, 2020 Order relaxing Rule 4:4-4(a)(7) so as to permit electronic service of process by email on the State of New Jersey are continued;

- c. The provisions of Rule 1:32-2A(c) and all other Court Rules requiring original signatures on filings are relaxed and supplemented as set forth in prior Orders; and

(9) DISCIPLINARY MATTERS & FEE ARBITRATION

- a. Disciplinary hearings and fee arbitrations will continue in a virtual (video or phone) format to the extent possible based on facilities, technology, and other resources, and the nature and complexity of the matter. The Director of the Office of Attorney Ethics shall exercise discretion and proceed in relatively straightforward matters; and

(10) BOARD OF BAR EXAMINERS

- a. The provisions of the April 24, 2020 Second Omnibus Order as continued in subsequent Omnibus Orders remain in full force and effect; and

(11) APPELLATE DIVISION

- a. The provisions of the April 24, 2020 Second Omnibus Order as continued in subsequent Omnibus Orders remain in full force and effect; and

- (12) Except as modified herein, the provisions of the July 24, 2020 Seventh Omnibus Order remain in full force and effect; and

- (13) Requests for extensions of time in individual cases, based on specific circumstances, may continue to be submitted by letter in lieu of a formal motion; and
- (14) In recognition of the pervasive and severe effects of the COVID-19 public health crisis, the court in any individual matter consistent with Rule 1:1-2(a) may suspend proceedings, extend discovery or other deadlines, or otherwise accommodate the legitimate needs of parties, attorneys, and others in the interests of justice; and
- (15) Depending on the duration of the COVID-19 pandemic, the Court may reconsider and revise the provisions of this order.

For the Court,



Chief Justice

Dated: September 17, 2020

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION**

Administrative Docket

No. 56 of 2020

In re: Residential Eviction Moratorium

ORDER

AND NOW, this 17th day of September, 2020, pursuant to Pa.R.J.A. No 1952 (B)(2), the Judicial Emergency declared by the First Judicial District, and upon consideration of the Order from Centers for Disease Control and Prevention (“CDC”) dated September 1, 2020 regarding temporarily halting certain residential evictions beginning September 4, 2020 through December 31, 2020 to prevent further spread of COVID-19, it is hereby **ORDERED and DECREED** that as to cases filed in the Trial Division of the Court of Common Pleas:

- (1) The CDC Order¹ halts evictions of tenants, lessees, and residents of a residential property (collectively “tenants”) who complete a Declaration for the Temporary Halt in Evictions to Prevent Further Spread of Covid-19 (“Declaration”) and give the completed Declaration to their landlord². Tenants who complete and provide an executed Declaration are still generally required to pay rent and must follow all of the other terms of their lease. Tenants may still be evicted for reasons other than not paying rent or making a housing payment. Landlord’s obligations under the lease continue as well.
- (2) The CDC Declaration form is available at: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>, and is attached to this Order. The Declaration contains the following general statements: that tenants (1) have made best efforts to obtain government assistance for rent, (2) meet certain income requirements, (3) are unable to pay the full rent due to loss of household income or work, (4) have made best efforts to make timely partial payments that are as close to full payment as circumstances permit, and (5) would likely be homeless or forced to move into close-quarters housing if evicted.
- (3) After the Declaration is completed and signed, tenants must give or send the Declaration to their landlord by email, regular mail, fax or in person. If the Declaration is personally served, an Affidavit may be required from the tenant establishing how service of the Declaration on the Landlord was accomplished.
- (4) Ejectment actions (which include landlord-tenant actions) will be accepted for filing by the Office of Judicial Records pursuant to the applicable statutes and rules governing those actions subject to the restrictions in the CDC Order and this Order. However, the Plaintiff

¹ <https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html>

² The “Landlord” definition includes the owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live.

must include a “*Plaintiff’s Affidavit in Connection with The CDC Order and Temporary Halt in Evictions to Prevent further Spread of Covid-19*” (“Affidavit”), as attached, stating whether or not they have received a Declaration from the tenant as required by the CDC Order and, as applicable, whether they dispute the Tenant’s entitlement to the CDC stay, and whether the action is subject to the CDC stay. The Office of Judicial Records shall reject the filing if the Affidavit is not attached.

- (5) Where an action based on non-payment of rent is filed, the Landlord must include the Affidavit, as attached, stating whether or not they have received the Declaration from the tenant as required by the CDC Order. If the Landlord certifies that the Tenant did provide the Declaration to the Landlord, the action will be accepted for filing and the case will be stayed until after the expiration of the CDC Order. If the Landlord acknowledges receipt of the Declaration but disputes Tenant’s compliance with the CDC Order or entitlement to the CDC stay, the action will be accepted for filing, and will nonetheless be stayed unless the Landlord files a motion to determine the Tenant’s eligibility to the stay based on the CDC requirements. The Office of Judicial Records shall reject the filing if the Affidavit is not attached.
- (6) In pending Landlord-Tenant appeals and Ejectment actions, no judgments of possession will be entered, or writs of possession will be issued, or supersedeas terminated unless the Landlord files an Affidavit, as attached, representing that the Landlord did not receive the Declaration from the Tenant, or that the Tenant is not entitled to the CDC stay. In either event, the action will not proceed unless the Landlord files a motion to determine the Tenant’s eligibility to the stay based on the CDC requirements.
- (7) Any person violating the CDC Order is subject to criminal prosecution, which may result in incarceration and the imposition of fines.

BY THE COURT:

/s/ Jacqueline F. Allen

JACQUELINE F. ALLEN

Administrative Judge
Trial Division

/s/ Lisette Shirdan-Harris

LISETTE SHIRDAN-HARRIS

Supervising Judge
Trial Division - Civil Section

**DECLARATION UNDER PENALTY OF PERJURY FOR
THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S TEMPORARY
HALT IN EVICTIONS TO PREVENT FURTHER SPREAD OF COVID-19**

This declaration is for tenants, lessees, or residents of residential properties who are covered by the CDC's order temporarily halting residential evictions (not including foreclosures on home mortgages) to prevent the further spread of COVID-19. Under the CDC's order you must provide a copy of this declaration to your landlord, owner of the residential property where you live, or other person who has a right to have you evicted or removed from where you live. Each adult listed on the lease, rental agreement, or housing contract should complete this declaration. Unless the CDC order is extended, changed, or ended, the order prevents you from being evicted or removed from where you are living through December 31, 2020. You are still required to pay rent and follow all the other terms of your lease and rules of the place where you live. You may also still be evicted for reasons other than not paying rent or making a housing payment. This declaration is sworn testimony, meaning that you can be prosecuted, go to jail, or pay a fine if you lie, mislead, or omit important information.

I certify under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing are true and correct:

- I have used best efforts to obtain all available government assistance for rent or housing;¹
- I either expect to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), was not required to report any income in 2019 to the U.S. Internal Revenue Service, or received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;
- I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, lay-offs, or extraordinary² out-of-pocket medical expenses;
- I am using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses;

¹ "Available government assistance" means any governmental rental or housing payment benefits available to the individual or any household member.

² An "extraordinary" medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

- If evicted I would likely become homeless, need to move into a homeless shelter, or need to move into a new residence shared by other people who live in close quarters because I have no other available housing options.³
- I understand that I must still pay rent or make a housing payment, and comply with other obligations that I may have under my tenancy, lease agreement, or similar contract. I further understand that fees, penalties, or interest for not paying rent or making a housing payment on time as required by my tenancy, lease agreement, or similar contract may still be charged or collected.
- I further understand that at the end of this temporary halt on evictions on December 31, 2020, my housing provider may require payment in full for all payments not made prior to and during the temporary halt and failure to pay may make me subject to eviction pursuant to state and local laws.

I understand that any false or misleading statements or omissions may result in criminal and civil actions for fines, penalties, damages, or imprisonment.

Signature of Declarant

Date

³ “Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate federal, state, or local occupancy standards and that would not result in an overall increase of housing cost to you.

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
Court of Common Pleas of Philadelphia County
Trial Division

	:	TERM, 20
	:	
vs.	:	
	:	
	:	No.

**PLAINTIFF’S AFFIDAVIT IN CONNECTION WITH THE CDC ORDER AND TEMPORARY
HALT IN EVICTIONS TO PREVENT FURTHER SPREAD OF COVID-19**

This Affidavit is being filed in connection with the Centers for Disease Control and Prevention (“CDC”) Order issued on September 1, 2020, and will be used by the Court to determine whether this action will be stayed until December 31, 2020 pursuant to the CDC Order, or will proceed as provided by rules of Court.

I represent as follows:

(Check One)

- ☐ This action is solely for failure to pay rent. I have received the CDC Declaration from the Tenant/Defendant. I understand that further proceedings will be stayed until 12/31/20.
- ☐ This action is solely for failure to pay rent. I have not received a Declaration from the Tenant/Defendant. I understand that the CDC stay will not be issued and that the case will proceed as provided by rules of Court.
- ☐ This action is solely for failure to pay rent. I have received the CDC Declaration from the Tenant/Defendant, but I dispute the Tenant’s entitlement to the stay because the Tenant does not meet the CDC requirements. However, I understand that this action will be stayed unless I file a motion setting forth why the Tenant does not meet the CDC requirements and obtain an order of Court lifting the stay.
- ☐ This action is for failure to pay rent and for breach(es) of condition(s) of the lease or other reasons. I understand that this case is not stayed and that it proceeds to breach(es) of the lease or other reasons.
- ☐ This action is not subject to the stay required by the September 1, 2020 CDC Order due to the following reason(s): _____
_____.

I understand that this case will proceed as provided by rules of court.

I, being duly sworn according to law, depose and say that I am the Plaintiff/Plaintiff’s Attorney in this action and that the facts and statements I have are true and correct to the best of my knowledge, information and belief.

I verify that the statements made are true and correct. I understand that any false statements I have made in this *Motion* are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date: _____

NAME OF PLAINTIFF/PLAINTIFF’S ATTORNEY